



ILLINOIS COMMERCE COMMISSION

August 3, 2001

The Burlington Northern and Santa Fe Railway Company,
Petitioner,

v.

Tamalco Township, Bond County, Illinois; Pleasant Mound Township, Bond
County, Illinois; Bond County, Illinois; and, State of Illinois. Department of
Transportation,
Respondents.

Petition seeking a determination from the Illinois Commerce Commission
whether the warning devices at the public grade crossing located at the tracks
of The Burlington Northern and Santa Fe Railway Company ("BNSF") and TR
247 (Main Street) in Tamalco Township, Bond County, Illinois, Milepost 102.33,
DOT No. 069316E should be upgraded to automatic flashing light signals with
gates and constant warning time circuitry; whether the public grade crossing
located at the intersection of the tracks of BNSF and Township Road TR 238 in
Tamalco Township, Bond County, Illinois, Milepost 102.21, DOT No. 069318T
should be closed; and, a connecting road constructed on the east side of the
tracks and right-of-way of BNSF between Township Road TR 247 (Main Street)
and TR 238, with any such cost be borne by the parties in accordance with law
and that a substantial portion of the cost to be borne by the Grade Crossing
Protection Fund.

And

Petition seeking a determination from the Illinois Commerce Commission
whether the warning devices at the public grade crossing located at the tracks
of BNSF and Township Road TR 199 in Tamalco Township, Bond County,
Milepost 98.65, DOT No. 069156T should be upgraded to automatic flashing
light signals and gates with constant warning time circuitry; the public grade
crossing located at the intersection of Township Road TR 232 in Tamalco
Township, Bond County, Illinois, Milepost 98.59, DOT No. 069160H should be
closed; a connecting road constructed on the east side of the tracks and right-
of-way of BNSF connecting Township Road TR 199, Township Road TR 326
(Second Street) and TR 232a; whether the warning devices at the grade
crossing located at the intersection of TR 326 (Second Street) and the tracks of
BNSF, Milepost 98.31 should be upgraded to automatic flashing light signals
and gates; the public at grade crossing at the intersection of Township Road
TR 232a and the tracks of BNSF, Milepost 98.23, DOT No. 069158G should be
closed; and, a connecting road west of BNSF's track and right-of-way
extending High Street to the north to Township Road TR 232a, with any such
costs to be borne by the parties in accordance with law and that a substantial
portion of any such costs be borne by the Grade Crossing Protection Fund.

TO ALL PARTIES OF RECORD:

T01-0028

DOCKETED

August 3, 2001

ADMINISTRATIVE LAW JUDGE'S RULING

On August 2, 2001, the Petitioner filed a Motion To Strike the letters submitted to the Hearing Examiner in the above captioned matter from Frank Watson, Byron Sikma, Russ Metzger, Verna Lee Roberts, Christopher J.T. Bauer and Charles E. Eyeman. Petitioner argues, the aforementioned persons lack standing to file exceptions to the Hearing Examiner's Proposed Order.

The Commission's Rule of Practice 200.710, required in part "When...a hearing examiner...becomes aware that he...has received. ..a prohibited communication, the communication shall be disclosed by him.. .by placing it in the record.. ." The Rule further requires that the material "...shall be disclosed to the parties of record by.. service on the parties.. ."

The Administrative Law Judge finds the letters in question were in fact ex parte communications and as such were required by Commission Rule to be placed in the record. Therefore the Petitioners Motion to Strike is **DENIED.**

ENTERED:



Rick Korte, Chief Administrative Law Judge
Review and Examination Program

RK:rsc

Railroad Staff: Mr. Humphries